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C O N F I D E N T I A L SECTION 01 OF 03 PRETORIA 003010

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SUBJECT: VLOK'S PROSECUTION SPARKS PURSUIT OF ANC OFFICIALS

REF: PRETORIA 2906

PRETORIA 00003010 001.2 OF 003

Classified By: Charge d'Affaires Don Teitelbaum. Reasons 1.4(b) and (d)

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¶1. (C) SUMMARY. On 21 August, AfriForum CEO Kallie Kriel told PolOff that they are trying to stop all prosecutions arising from information found during the Truth and Reconciliation Commission (TRC). If they do not succeed, AfriForum, which promotes "white civil rights," will settle for "evenhandedness," meaning that the government prosecute both former security officials as well as ANC leaders who were not granted amnesty during the TRC. Their last resort will be to pursue criminal action against a high-level ANC member, yet to be determined, for the 1985 murder of three civilians. Their campaign is more likely to be viewed as sour grapes than a fight for racial equality. END SUMMARY.

AFRIFORUM SEEKS NOTHING OR ALL

¶2. (C) AfriForum CEO Kallie Kriel told PolOff on 21 August that his organization, which seeks "to give white South Africans a voice in a society where they are increasingly being ignored," is trying to stop all prosecutions resulting from any facts found during the Truth and Reconciliation Commission (TRC). When PolOff asked him how he was going about this, he asked her if she had time and pulled a shopping bag full of documents from under his desk. He said AfriForum sent written requests on 27 July to both the National Prosecuting Authority (NPA) and the President's Office stating their position, which is basically to "let sleeping dogs lie." If AfriForum's attempt to cease all prosecutions fails, Kriel said his organization would call for "evenhandedness," meaning that the government should prosecute both former security officials as well as ANC leaders who were not granted amnesty during the TRC.

¶3. (C) Kriel then showed PolOff the responses he has received, both dated 17 August, the same day former Minister of Law and Order Adriaan Vlok was found guilty of the 1985 attempted murder of ANC activist Reverend Frank Chikane (reftel). The President's Office faxed a very short response stating that the matter has been referred to the Legal and Executive Services Unit of the Presidency. The NPA was more direct, stating that they "would not cease all prosecutions arising from the TRC cases," nor would it open any investigation into the 37 ANC members who were refused amnesty by the TRC. The letter was signed by the National Director of Public Prosecutions, Advocate Vusi Pikoli.

Attached to the letter was a 15 May 2004 NPA press release entitled, "The NPA Closes the File on 37 ANC Leaders." (NOTE: In 1996, the ANC leadership, led by then-Deputy President Mbeki, jointly applied for amnesty and took collective responsibility for policy decisions that led to acts that were regarded as criminal by the previous government. The TRC rejected the application, which covered 37 ANC members (most of whom are now dead), on the grounds that people who sought amnesty had to make individual applications and give a full disclosure of their crime. END NOTE)

¶4. (C) PolOff never saw the original request from AfriForum, but the NPA's response makes it clear that AfriForum claims to have evidence against the ANC. "I note that you have declined to make your private investigation available to me. I therefore have no legal basis upon which to overturn (our) properly informed and carefully considered decision," the NPA's letter reads. When PolOff asked what information they had, Kriel told her that they hired a private investigator to build a case against the ANC, but that their lawyer had advised them not to disclose the information to the NPA. Kriel admitted that he disagreed with the lawyer's advice and was not surprised that the NPA declined to act on information they had never seen.

¶5. (C) Kriel was emphatic that "we just want to turn the page" and that AfriForum's attempts should not be viewed as "retaliatory" in response to Vlok's prosecution. When PolOff asked if the fact that Vlok had come forward voluntarily and received a suspended sentence made a difference, he told her no even though he also admitted that he has no knowledge of the NPA investigating any other apartheid-era officials. The bottom line, he said, is that "we cannot take any chances; a prosecution with a suspended sentence is still a prosecution."

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LAST RESORT; PRIVATE CRIMINAL PROCEEDINGS

¶6. (C) If the NPA does not declare an official moratorium on prosecutions of apartheid-era security officials and continues to refuse to press charges against former ANC leaders, AfriForum will try to help Dirk van Eck -- whose wife and two children were died in 1985 after driving over a landmine laid by the ANC's guerrilla wing -- take private criminal action. According to Kriel, there are no statute of limitations on private criminal proceedings and van Eck can go to any police station to file a formal complaint against ANC officials. He also added that van Eck could have pursued a civil suit (through his only surviving son who just turned 22), but does not want to give the impression he is looking for financial compensation.

¶7. (C) After Kriel showed PolOff enlarged, graphic, laminated photos of van Eck's wife and two children lying in a morgue after the accident, she asked who van Eck blamed. Kriel said that the two men who physically laid the mines were caught soon after the attack and sentenced to life in prison. They were later released after receiving political amnesty from the TRC. Therefore, they have advised van Eck to go after someone who was in ANC leadership at the time who authorized the violent act. Kriel then showed PolOff two lists: NEC members from 1985-1990 and the 37 ANC members who did not receive amnesty. Most of the names matched up, but also most are no longer alive. The list included President Mbeki, ANC Deputy President Jacob Zuma, NEC members Mathews Phosa and Ngoako Ramatlhodi, Minister of Intelligence Ronnie Kasrils, Minister of Arts and Culture Pallo Jordan, businessmen Tokyo Sexwale and Cyril Ramaphosa, and presidential advisor Joel Netshitenzhe. Kriel said that AfriForum does not want to start a "political firestorm," which would likely happen if they chose Mbeki. Though Kriel did not say for certain who

they would choose, PolOff has the impression that Minister Kasrils was at the top of the list.

BIO NOTE

18. (C) Kriel is the embodiment of the frustrated Afrikaaner. The fact that he is CEO of an organization that dedicates itself to white rights also means that he is constantly surrounded by those who feel marginalized by the ANC and blacks in South Africa in general. PolOff met Kriel recently at a Native Club seminar on geographic name changes, where he was the only white on the panel and only the second white in the room. Kriel started his speech by telling the audience that he was an African, that his family had come to South Africa almost 400 years ago, and that he wants to build a society where his children feel welcome. The audience was particularly harsh to him, calling him "brother" sarcastically. One person stood up and asked why it was that Mbeki had to point out to the world that he is African (in his now famous "I am an African" speech when he launched the Constitution). Though most people in the room took it to mean that South African culture has been suppressed by European culture, one could have interpreted it to mean that Mbeki had to identify himself because of what followed Mbeki's statement: "We refuse to accept that our Africanness shall be defined by race, color, gender, or historical origins." In fact, Kriel carries a tiny, worn-out, highlighted copy of the Constitution in his pocket, saying without irony that "it's my best defense against racism." When PolOff had lunch with one of the organizers later in the week and asked if he felt the audience's reception of Kriel was less than cordial, he laughed but agreed, stating that people were only trying to impress each other. Then he added that a debate like that one would not have been possible before 1994, adding "it's the beauty of today's democracy."

COMMENT

19. (C) It is unclear why AfriForum feels so strongly about pursuing charges against the ANC when there is little evidence that the NPA is pursuing any other apartheid-era officials; Vlok's prosecution was unique in that he confessed and presented himself to the NPA. Since the end of the TRC, the NPA has taken only a handful of cases resulting from the TRC to court and had some very public failures as a result.

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Moreover, other right-wing organizations, like "The Foundation for Equality Before the Law," which was led by Vlok's codefendant former National Police Commissioner General Johan van der Merwe, have failed to pressure the NPA into prosecuting ANC officials. Though AfriForum is likely trying to make a point about what it views as deteriorating race relations, pursuing criminal charges against ANC leaders who fought against apartheid is more likely to be viewed as sour grapes than a fight for racial equality.
Teitelbaum